REMARKS

The Office Action of July 11, 2005 was received and carefully reviewed. Reconsideration and withdrawal of the currently pending rejections are requested for the reasons advanced in detail below.

Claims 7-29 were pending prior to the instant amendment. By this amendment, claim 29 is amended, and new claims 30-37 are added to recite additional features of the present invention to which Applicants are entitled.

Claims 7-29 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 5,789,284; and claims 7-29 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 7-29 of U.S. Patent No. RE 38,266E.

In response to the above rejections, Applicants hereby submit a Terminal Disclaimer in compliance with 37 C.F.R. 1.321(c) with respect to U.S. Patent Nos. RE 38,266E and 5,789,284 to overcome these rejections.

Claims 7-22 are also rejected under 35 U.S.C. 251 as being broadened in a reissue application filed outside the two year statutory period. Applicants traverse this rejection for the reasons advanced in detail below.

Applicants contend that 35 U.S.C. 251 should be interpreted as to divisional reissue applications in a manner that provides such a divisional reissue application with the same effect as though such application was filed on the date when the earlier broadening reissue application was filed, namely, within two years from the issue date of the original patent. The Board of Patent Appeals and Interferences supported this conclusion in its decision in Patent Interference No. 102,223, *Buell v. Beckestrom*, a copy of which is attached hereto for the Examiner convenience.

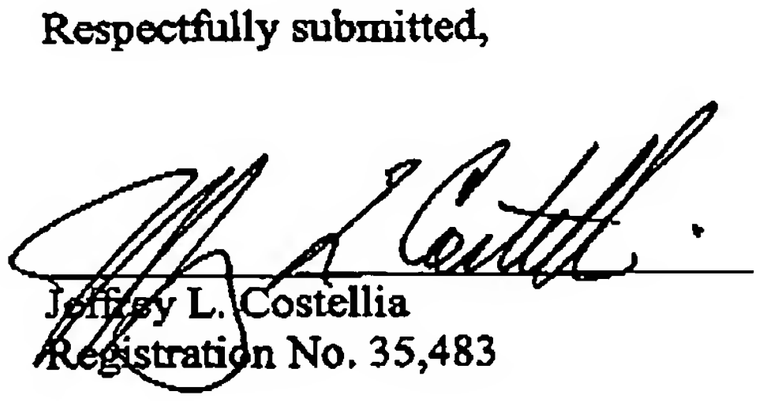
Specifically, with reference to Section "*II. Beckestrom's Right to Present Claims Broader than Those Claims Issued in His Original Patent*," the Board concluded that a divisional reissue application should have the same effect as though such application was filed on the date when the earlier broadening reissue application was filed. Beckestrom successfully relied on *In re Bauman*, 683 F.2d 405, 214 U.S.P.Q. 585 (CCPA 1982) for the

proposition that reissue applications continuing from reissue applications are within the scope of Section 120 and *In re Hogan*, 559 F.2d 595, 604, 194 U.S.P.Q. 527, 536 (CCPA 1977) for the proposition that Section 120 is applicable to all bases of rejection, as well as *In re Doll*, 419 F.2d 925, 164 U.S.P.Q. 218 (CCPA 1970) for the proposition that broadening claims may be presented in a reissue application filed within two years after a patent grant even though such claims were not presented until more than two years after the patent grant. This was true even though the broadened claims were not presented until more than two years after the patent grant and were broader than the original patent claims and the broadened reissue claims originally submitted.

Since the original reissue application upon which priority is based in the instant application was so filed within two years from the issue date of the original patent grant, the instant divisional reissue application should continue to be entitled to include claims having a broader scope than the original claims. Specifically, reissue application 09/838,216 was filed on April 20, 2001, which is less than two years from the issuance of U.S. Patent No. 6,071,766 that issued on June 6, 2000. Therefore, it is believed that the rejection is not proper, and should be reconsidered and withdrawn.

In view of the foregoing, it is respectfully requested that the rejections of record be reconsidered and withdrawn by the Examiner, that claims 7-29 be allowed, that new claims 30-37 be allowed and that the application be passed to issue. If a conference would expedite prosecution of the instant application, the Examiner is hereby invited to telephone the undersigned to arrange such a conference.

Respectfully submitted,



Jeffrey L. Costellia
Registration No. 35,483

NIXON PEABODY LLP
Suite 900, 401 9th Street, N.W.
Washington, D.C. 20004-2128
(202) 585-8000

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